

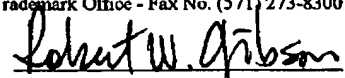
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Date: 09/05/2006


Robert W. Gibson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Christopher J. EVANS et al.

Serial No.: 10/796,121

Art Unit: 3728

Filed: March 10, 2004

Examiner: Luan Kim Bui

For: BLISTER OPENERS

RESPONSE

To the Director of the Patent and Trademark Office

Sir:

In response to the office action dated August 2, 2006, the Applicant provisionally elects claims of Group II (Figs. 6-9) and traverses the requirement for restriction.

Claims 22-25 and 47-51 read on the provisionally elected species of Group II, Figs. 6-9.

The Examiner has not made any requirement based on the subject matter being independent. Therefore it is understood that the Examiner concedes that the subject matter is not independent.

The Examiner's requirement for restriction is based upon his holding that the subjects are distinct. That is, as pointed out in Section 802.01, the Examiner has held that the subject matter as claimed:

are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE
(novel and unobvious) OVER EACH OTHER.

The Examiner has held under Section 803 that the claimed inventions:

are able to support separate patents and they are ... distinct (MPEP Section 806.05-
806.05(i)).

However, Section 803 unequivocally states:

If the search and examination of an entire application can be made without serious burden,
the Examiner must examine it on the merits, even though it includes claims to distinct or
independent inventions.

So that Section 803 makes its point clearly, the serious burden requirement is repeated under the
title:

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

Section 803 goes on to state that there are two criteria for a restriction requirement: one,
that the inventions must be distinct as claimed; and two, that there must be a serious burden on
the Examiner if restriction were not required.

Regarding the criteria for a proper election of species requirement, MPEP section
808.01(a) also states that "a requirement for restriction is permissible if there is a patentable
difference between the species as claimed and there would be a serious burden on the examiner if
restriction is not required."

Section 803 goes on to state under GUIDELINES that an Examiner must provide reasons
and/or examples to support conclusions. The Examiner has never stated that there would be a

serious burden on the Examiner if restriction were not required. Indeed, there should be no serious burden on the Examiner.

The subclasses the Examiner would be required to search are all close together and are all within the subclasses which the Examiner regularly searches, and all require searching. Indeed, it would not be unreasonable for the Examiner to search subclasses that were close together, and therefore restriction should not be required.

In the present case the particular criteria and guidelines of 803 must be followed in that there must be a serious burden on the Examiner if restriction were not required. In the present case, all of the Groups are properly classified and searched together, and the search for one group would not be complete without searching all of the subclasses for all of the Groups.

There should be no hardship on the Examiner to complete examination for all groups.

CONCLUSION

Reconsideration and allowance of the application are requested. Reconsideration and withdrawal of the restriction requirement are requested.

Respectfully,



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